IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HONOURBALE SRI JUSTICE ELIPE DHARMA RAO

W.P. No. 10457 OF 2001

Dated : 11th August, 2005

Between:

T.Prabhakar and another

Petitioners

AND

The Municipal Corporation of Hyderabad,

Rep. By its Commissioner, Tank Bund,

Hyderaad and two others.

Respondents

THE HONOURBALE SRI JUSTICE ELIPE DHARMA RAO

W.P. No. 10457 OF 2001

ORAL ORDER

Aggrieved of the action of the respondents in trying to demolish the building bearing No. 10-2-222, Plot No. 271, situated at West Marredpally, Secunderabad without considering the explanation and without passing a final order, in accordance with the provisions of the Hyderabad Municipal Corporation Act, the petitioners filed this writ petition.

The first petitioner is the absolute owner of the above said premises admeasuring 600 Sq. yards and he entered into development agreement with the 2nd petitioner for construction of multistoried building and the petitioners have completed stilt and four upper floors as per the sanctioned plan, approved by the first respondent and when they raised pillars on the roof of 4th floors, for the purpose of construction of overhead tank, lift room and staircase, the first respondent issued notice dated 1.4.2000 purporting to be under Sec. 636 of the Hyderabad Municipal Corporation Act with the allegation of unauthorized erection of RCC columns at fifth floor, projection of covered balcony into rooms, etc. Aggrieved of this notice, the petitioners filed WP No. 5502 of 2000 and this court disposed of the same on 21.11.2000 directing the petitioners to submit their explanation to the said notice and also directed the respondent Corporation to consider the same in accordance with law. Consequently, petitioners submitted explanation on 9.1.2001, which was not considered and the staff of the 3rd respondent visited the building on 9.5.2001 and threatened to demolish the same. They also submitted a representation dated 10.5.2001 to the 2nd respondent, which was also not considered. Therefore, the present writ petition is filed with the above prayer.

Pursuant to Rule Nisi, the 1st and 2nd respondents filed their counter elaborating the deviations made by the petitioner in the sanctioned plan. It is also stated that the petitioners did not maintain setbacks as per the plans. Hence, the respondent has initiated action under the provisions of the Hyderabad Municipal Corporation Act, 1955 by issuing notices under Sec. 452 and 636 of the Act and in view of the

orders passed in WP No. 5502 of 2000, no action of demolition was taken. It is further submitted that the petitioners without submitting explanation to the notice enabling the respondents to consider and pass final orders, have rushed to this court and filed the writ petition. Therefore, sought for dismissal of the writ petition.

Earlier, the petitioners filed writ petition No. 5502 of 2000 on the ground that before issuing the notice dated 1.4.2000, the corporation has not issued notice to the petitioners and on the direction of this court by order dated 21.11.2000, it is contended by the petitioners that they have submitted explanation to the notice on 9.1.2001, which is being denied by the respondents. Thus the matter is pending considering for passing final orders under the provisions of the Hyderabad Municipal Corporation Act, 1955. Having regard to these facts, I deem it appropriate to dispose of the writ petition, directing the respondents to consider the explanation submitted by the petitioner dated 9.1.2001 submitted in response to the notice dated 1.4.2000, and pass appropriate orders within a period of 12 weeks from the date of receipt of a copy of this order, after affording an opportunity to the petitioners. Till such time, the respondents are directed not to take any coercive steps to demolish the building, as pointed out in the impugned notice. The writ petition is accordingly disposed of. No order as to costs.

Elipe Dharma Rao, J.

August 11, 2005

MAS.